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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,444	11/26/2003	Jean-Philippe Jomini	7419-0001	5970

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EXAMINER

PASS, NATALIE

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/723,444	Applicant(s) JOMINI ET AL.	
	Examiner Natalie A. Pass	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-18 and 20-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-18 and 20-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 8 June 2005. Claims 1, 15-18, 20, 22, 26 have been amended. Claim 27 has been newly added. Claims 2 and 19 have been canceled. Claims 1, 3-18, 20-27 remain pending.

Specification

2. The amendment filed 8 June 2005 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. "New matter" constitutes any material which meets the following criteria:

a) It is added to the disclosure (either the specification, the claims, or the drawings) after the filing date of the application, and

b) It contains new information which is neither included nor implied in the original version of the disclosure. This includes the addition of physical properties, new uses, etc. The added material which is not supported by the original disclosure is as follows:

- "automatically comparing " as disclosed in claim 1, line 7;
- "automatically triggering " as disclosed in claim 1, line 9.

In particular, Applicant does not point to, nor was the Examiner able to find, any support for this newly added language within the specification as originally filed on 26 November 2003.

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As such, Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims.

Applicant is required to cancel the new matter in the reply to this Office Action.

3. If Applicant continues to prosecute the application, revision of the specification and claims to present the application in proper form is required. While an application can, be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed on 26 November 2003.

4. The disclosure is also objected to because of the following informalities: In amendments to the specification replacement paragraphs must include markings to show the changes.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(A) Independent claim 1 recites limitations that are new matter, as discussed above, and is therefore rejected.

(B) Claims 2-14 incorporate the features of independent claim 1, through dependency and are also rejected.

Claim Rejections - 35 USC §101

6. The rejection of claims 1-3, 6, 8-11, 13 20 under 35 U.S.C. 101 is hereby withdrawn due to the amendment filed 8 June 2005.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3, 6-18, 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al., U.S. Patent Number 6, 524, 239, for substantially the same reasons given in the previous Office Action (paper number 02242005), and further in view of Nelson et al., U.S. Patent Application Publication Number 2001/0023360. Further reasons appear hereinbelow.

(A) Claim 1 has been amended to include the recitation of:

- "establishing a first secure sockets tunnel between a processing device located within the home and a monitoring server located at a monitoring station, the monitoring station being remotely connected with respect to the home," in lines 2-4;
- "within the home," in lines 5-6;
- "automatically," in lines 7 and 9;

- "responsive to said exception, forwarding exception data correlating to the exception from the processing device to the monitoring server via the first secure sockets tunnel," in lines 11-13;

As per these new limitations, Reed teaches a method as analyzed and discussed in the prior Office Action (paper number 02242005) including

monitoring at least one behavioral parameter associated with a person (Reed; Abstract, column 2, lines 5-8) within "private residences" (reads on "within the home") (Reed; column 10, lines 18-23);

automatically comparing the behavioral parameter to at least one pre-determined rule which is based upon a behavioral profile (Reed; column 7, lines 63-64, column 8, lines 52-62, column 11, lines 9-10).

Although Reed teaches "[t]hese technologies are combined with Internet-based communication networks to monitor human health and provide behavioral cues to prolong subject independence. The monitoring system according to the present invention gathers, logs, and transmits health-related data such as body temperature, oximetry, pulse, weight, hydration, blood pressure and mobility ..." (Reed; column 10, lines 27-33), and "[s]ubject data privacy is thereby assured" (Reed; column 8, line 31) Reed fails to explicitly disclose

establishing a first secure sockets tunnel between a processing device located within the home and a monitoring server located at a monitoring station, the monitoring station being remotely connected with respect to the home; and

responsive to said exception, forwarding exception data correlating to the exception from the processing device to the monitoring server via the first secure sockets tunnel.

However, the above features are well-known in the art, as evidenced by Nelson.

In particular, Nelson teaches

establishing a first secure sockets tunnel between a processing device located within the home and a monitoring server located at a monitoring station, the monitoring station being remotely connected with respect to the home (Nelson; paragraph [0043]); and

responsive to said exception, forwarding exception data correlating to the exception from the processing device to the monitoring server via the first secure sockets tunnel (Nelson; paragraphs [0017], [0021]-[0022], [0043]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Reed to include these limitations, as taught by Nelson, with the motivations of ensuring security and integrity of the patient information while minimizing situations in which the physical transport of a patient to a clinical setting is required and minimizing the extent to which a patient or patient information must be considered by a clinician (Nelson, paragraphs [0003], [0043]).

The remainder of claim 1 is rejected for the same reasons given in the prior Office Action (paper number 02242005, section 6, pages 4-5), and incorporated herein.

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(B) Claims 3, 6-14, 21, 23-25 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 02242005, section 6, pages 5-8), and incorporated herein.

(C) Claim 15 has been amended to include the recitation of:

- "behavioral," in line 3;
- "located within the home," in line 4;
- "a monitoring server located at a monitoring station which is remotely located with respect to the home," in lines 5-6;
- "a first secure sockets tunnel communicatively linking said processing device to said monitoring server," in lines 7-8; and
- "said exception causing said processing device to forward exception data to the monitoring server via the first secure sockets tunnel," in lines 12-14.

As per these new limitations, Reed and Nelson teach a system as analyzed and discussed in the prior Office Action (paper number 02242005) including

generating correlating behavioral data (Reed; column 1, lines 60-64, column 4, lines 9-11);

device located within "private residences" (reads on "located within the home") (Reed; column 10, lines 18-23);

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a monitoring server located at a monitoring station which is remotely located with respect to the home (Reed; Figure 1, Item 102, column 1, line 66 to column 2, line 4, column 3, lines 19-25);

a first secure sockets tunnel communicatively linking said processing device to said monitoring server (Nelson; paragraph [0043]);

said exception causing said processing device to forward exception data to the monitoring server via the first secure sockets tunnel (Nelson; paragraphs [0017], [0021]-[0022], [0043]).

The remainder of claim 15 is rejected for the same reasons given in the prior Office Action (paper number 02242005, section 6, page 5), and incorporated herein.

The motivations for combining the respective teachings of Reed and Nelson are as given in the rejection of claim 1 above, and incorporated herein.

(D) Claims 16-17 have been amended to include the recitation of:

- "behavioral," in line 2;

As per these new limitations, Reed and Nelson teach a system as analyzed and discussed in the prior Office Action (paper number 02242005) including

receiving and forwarding and wirelessly propagating of behavioral data (Reed; column 1, lines 60-64, column 4, lines 9-11).

The remainder of claims 16-17 is rejected for the same reasons given in the prior Office Action (paper number 02242005, section 6, page 6), and incorporated herein.

The motivations for combining the respective teachings of Reed and Nelson are as given in the rejection of claim 1 above, and incorporated herein.

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(E) Claim 18 has been amended to include the recitation of:

- " second secure sockets tunnel communicatively linking said monitoring server to said processing device," in lines 2-3;

As per these new limitations, Reed and Nelson teach a system as analyzed and discussed in the prior Office Action (paper number 02242005) including

second secure sockets tunnel communicatively linking said monitoring server to said processing device (Nelson; paragraphs [0017], [0043]).

The remainder of claim 18 is rejected for the same reasons given in the prior Office Action (paper number 02242005, section 6, page 7), and incorporated herein.

The motivations for combining the respective teachings of Reed and Nelson are as given in the rejection of claim 1 above, and incorporated herein.

(F) Claims 20 and 22 have been amended to include the recitations of "second secure sockets tunnel" in lines 2-3 and 3, respectively.

As per these new limitations, Reed and Nelson teach a system as analyzed and discussed in the prior Office Action (paper number 02242005) including second secure sockets tunnel (Nelson; paragraphs [0017], [0043]).

The remainder of claims 20 and 22 is rejected for the same reasons given in the prior Office Action (paper number 02242005, section 6, page 7-8), and incorporated herein.

The motivations for combining the respective teachings of Reed and Nelson are as given in the rejection of claim 1 above, and incorporated herein.

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(G) As per newly added claim 27, Reed and Nelson teach a method as analyzed and discussed in claim 1 above, further comprising

establishing a second secure sockets tunnel between the monitoring server and the processing device (Nelson; paragraphs [0017], [0043]);

responsive to the exception data, forwarding response data correlating to the exception from the monitoring server to the processing device through the second secure sockets tunnel (Nelson; paragraphs [0017], [0021]-[0022], [0043]).

The motivations for combining the respective teachings of Reed and Nelson are as given in the rejection of claim 1 above, and incorporated herein.

9. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al., U.S. Patent Number 6, 524, 239 and Nelson et al., U.S. Patent Application Publication Number 2001/0023360 as applied to claim 1 above, and further in view of Brudny et al., U.S. Patent Number 5, 810, 747 for substantially the same reasons given in the previous Office Action (paper number 02242005). Further reasons appear hereinbelow.

(A) Claims 4-5 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 02242005, section 8, pages 8-9), and incorporated herein.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al., U.S. Patent Number 6, 524, 239 and Nelson et al., U.S. Patent Application Publication Number

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2001/0023360 as applied to claim 15 above, and further in view of Chen et al., U.S. Patent Number 5, 553, 609 for substantially the same reasons given in the previous Office Action (paper number 02242005). Further reasons appear hereinbelow.

(A) The amendments to claim 26 appear to have been made merely to correct minor typographical or grammatical errors. While these changes render the language of the claims smoother and more consistent, they otherwise affect neither the scope and breadth of the claims as originally presented nor the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action.

As such, the recited claimed features are rejected for the same reasons given in the prior Office Action (paper number 02242005, section 9, pages 9-10), and incorporated herein.

Response to Arguments

11. Applicant's arguments on pages 9-10 of the response filed 8 June 2005 with respect to newly amended claims 1, 15-18, 20, 22, and 26 and newly added claim 27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. **Any response to this final action should be mailed to:**

Box AF

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to: (571) 273-8300.

For formal communications, please mark

"EXPEDITED PROCEDURE".

For informal or draft communications, please

label "PROPOSED" or "DRAFT" on the front page of

the communication and do NOT sign the

communication.

After Final communications should be labeled "Box AF."

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

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15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Natalie A. Pass

September 6, 2005



JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER